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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,051	09/17/2003	Stefan Deferme	1316N-001669	6584

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EXAMINER

SCHWARTZ, CHRISTOPHER P

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 08/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/666,051

Applicant(s)

DEFERME, STEFAN

Examiner

Christopher P. Schwartz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12, 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### DETAILED ACTION

1. Applicant's amendment filed 6/16/04 has been received. Claims 1-12 and 14 are pending in the application. Claim 13 has been canceled.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-12, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ashiba '014 in view of Knecht et al. or Popjoy et al..

Regarding claim 1 as described in the previous action Ashiba '014 discloses several embodiments which may be modified to meet the claimed limitations. For instance in figure 19 Ashiba discloses an upper chamber 201a, piston member 202, a lower working chamber (in the area of leader line 206), rod 207 having a passage therethrough, a first valve assembly 206, a second valve assembly 205, a housing 208 defining a pressure chamber therein (not labeled – but just about any area therein on either side of the valves) a piston 220 defining upper and lower chambers on either side thereof, a first bleed valve assembly 225, and a third fluid passage 209.

Ashiba lacks a specific showing of the first bleed valve assembly including a first needle extending through a first restriction.

It is noted this needle 128 in applicant's design is part of the piston 116.

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Knecht et al. Or Popjoy et al. are relied upon to show such "needle type" valves are well known in the art. See Knecht at 35 and Popjoy figure 6 at 116,116a.

One having ordinary skill in the art at the time of the invention would have found it obvious to have modified the piston 220 such that it includes a needle, as taught by either Knecht et al. or Popjoy et al., to meter fluid flow through the valve 225 as such a modification would depend on the desired damping characteristics desired.

Regarding claim 2 these requirements are met. The lower chamber is in the area of leader line 219.

Regarding claim 3, as broadly claimed, the second bleed valve assembly may be interpreted as 214b.

Regarding claim 4 the valve may be considered to be the structure of the piston controlling fluid flow through the orifice at 219.

However another interpretation may be given with respect to the claims above. It is known in the art to duplicate valve assemblies to control fluid flow through a particular path. Such may be seen at valves 205, 206, and 213,214 and in the embodiment of figure 9 with elements 31,32 and 47,52.

Therefore one having ordinary skill in the art would have found it obvious to have duplicated the valve arrangement shown at 225 on the other side of the piston 220 by covering the orifice at 229a, and with the modification above to the piston 220, as taught by either Knecht or Popjoy, Ashiba would then meet the requirements of claims 3-12 and 14.

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Note the modification with Knecht or Popjoy could also be made to several of the other embodiments of Ashiba et al. See figure 5 (and the piston at 31 or 32) and more specifically the embodiment shown in figure 9.

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-12,14 have been considered but are moot in view of the new ground(s) of rejection.

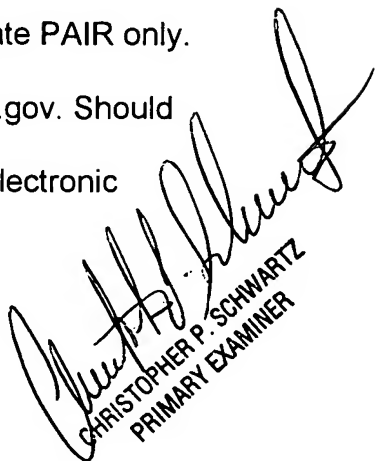
***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Schwartz whose telephone number is 703-308-0576. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack W. Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cps  
8/25/04

  
CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER

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